



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6813-99

28 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 8 June 1955 at the age of 17. Your record reflects that you served for a year without incident but during the period from 27 July to 13 August 1956 you received nonjudicial punishment (NJP) on three occasions for breaking restriction, failure to go to your appointed place of duty, and drunk and disorderly conduct. Shortly thereafter, on 4 October 1956, you were convicted by summary court-martial (SCM) of breach of the peace and drunk and disorderly conduct.

Your record further reflects that on 15 January 1957 you were convicted by general court-martial (GCM) of one day of unauthorized absence, two specifications of resisting arrest, escaping confinement, and two specifications of communicating a threat. You were sentenced to a reduction in rate, confinement at hard labor for three months, and a bad conduct discharge (BCD).

On 6 May 1957 you were arrested by civil authorities and charged with assault and battery and highway robbery. At this time you

were also declared a deserter. On 9 May 1957 you were convicted by civil authorities of highway robbery and sentenced to confinement for four months.

Subsequently, the BCD was approved at all levels of review and ordered executed. On 7 August 1957 you received the BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded now that you are 61 years old and disabled. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your frequent misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director